



## Treasury Inspector General for Tax Administration

### FISCAL YEAR 2007 STATUTORY AUDIT OF COMPLIANCE WITH LEGAL GUIDELINES PROHIBITING THE USE OF ILLEGAL TAX PROTESTER AND SIMILAR DESIGNATIONS

Issued on July 3, 2007

## Highlights

Highlights of Report Number: 2007-40-112 to the Internal Revenue Service Deputy Commissioner for Services and Enforcement and Deputy Commissioner for Operations Support.

### IMPACT ON TAXPAYERS

Congress enacted Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98) Section 3707 to prohibit the IRS from labeling taxpayers as Illegal Tax Protesters or any similar designations. Employees continue to refer to taxpayers as Illegal Tax Protesters in case narratives. Use of Illegal Tax Protester or similar designations may stigmatize taxpayers and may cause employee bias in future contacts with these taxpayers.

### WHY TIGTA DID THE AUDIT

Prior to enactment of the RRA 98, the IRS used the Illegal Tax Protester Program to identify individuals and businesses using methods that were not legally valid to protest the tax laws. IRS employees referred taxpayers to the Illegal Tax Protester Program when they used these protest arguments that had been repeatedly rejected by the courts.

Congress enacted the prohibition against use of Illegal Tax Protester designations because it was concerned that some taxpayers were being permanently labeled as Protesters even though they had subsequently become compliant with the tax laws. The label could bias IRS employees and result in unfair treatment.

The objective of this review was to determine whether the IRS complied with RRA 98 Section 3707 and internal guidelines that prohibit officers and employees from referring to taxpayers as Illegal Tax Protesters and similar designations. TIGTA is required to annually evaluate compliance with the prohibition against using Illegal Tax Protester or similar designations.

### WHAT TIGTA FOUND

The IRS has not reintroduced past Illegal Tax Protester codes or similar designations on taxpayer accounts. In addition, IRS publications and policy manuals no longer contain any Illegal Tax Protester references. However, in the approximately 49.6 million records and cases reviewed, there were 601 references to taxpayers as Illegal Tax Protesters or similar designations in case narratives on the computer systems sampled.

IRS tax compliance operations have not been significantly affected by the prohibition against the use of Illegal Tax Protester or similar designations because alternative programs (such as the Frivolous Return Program, the Nonfiler Program, and the Potentially Dangerous Taxpayer/Caution Upon Contact Program) exist to address issues previously handled by the Illegal Tax Protester Program. Our reviews over the past 8 years have not identified instances in which the Illegal Tax Protester indicator was needed on a taxpayer's account to either accelerate tax enforcement actions and/or alert IRS employees to be cautious when dealing with the taxpayer.

### WHAT TIGTA RECOMMENDED

TIGTA made no specific recommendations in this report. In their response to the report, IRS management disagreed that the references listed in the report are violations. However, because they understand our concern with the use of "tax protester" in case narratives, they plan to issue a memorandum to all employees to reinforce compliance with RRA 98 Section 3707.

### READ THE FULL REPORT

To view the report, including the scope, methodology, and full IRS response, go to:

<http://www.treas.gov/tigta/auditreports/2007reports/200740112fr.pdf>.